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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,817	06/26/2003	Paul G. Kostenick JR.	05165.1200	2739

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EXAMINER

FAYYAZ, NASHMIYA SAQIB

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/603,817	KOSTENICK ET AL.	
	Examiner	Art Unit	
	Nashmiya S. Fayyaz	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/31/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1, 2, 4-8, and 10-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meisser(U.S. Patent # 6,212,924). As to claim 1, 2, 4-8 and 10-27, Meisser discloses a process and apparatus for calibration of a force sensor of a crimping press including a calibrator 25 for tool evaluator 18/23.1 which includes actuator 18 and a first force sensor 23.1 which transmits a first signal and the calibrator including a second force sensor 38 and a controller 28 which receives the first and second signal at evaluating circuit 61 and calibrates the first sensor 23.1, and further includes "rests" 23/37 operatively attached to the actuator providing surfaces to bear against the second sensor 38 and the tool, see Figs. 6-9 and 12 and col.4, lines 30 et seq. Also, it is noted that the tool is not specifically disclosed as having the intended usage of being "hand-operable". However, in accordance with the operation described of the crimping press 25, any aspect of the operation can be designated as "hand-operable" such as the switch that turns it on or usage of the operating terminal 27 which acts as an interface between the "operator" and the crimping press, the operating terminal having a "knob" 29 and keyboard 30, both being used by an operator's hand, see col. 4, lines 51-57. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have designated the tool being tested as a "hand-operable" tool since it is intended to be used by

employing the operation i.e. turning of a knob or usage of a keyboard, etc. As to claims 2 and 4-5, in col. 6, lines 3 et seq, the operation of controller 28 is described in combination with fig.12 as well as compilation of a "correction table" or profile (as in fig. 9a) for "100 force values", see col.5, lines 34-49. As to claim 6, note figs. 13-15 which show curves for various crimping faults and refers to comparison with limit values of zones such as described in col. 9, lines 10 et seq. As to claim 7, note calibrator 25 for tool evaluator 18/23.1 which includes actuator 18, first controller 21 and a first force sensor 23.1 which transmits a first signal and the calibrator including a second force sensor 38 and a second controller 28/61/54/52 which receives the first and second signal at evaluating circuit 61 and cpu 54 which calibrates the first sensor 23.1, see Figs. 6-9 and 12 and col.4, lines 30 et seq. As to claim 8, Meisser lacks a teaching for displaying a recalibration warning. However, it is well-known that the life of a force sensor is finite and official notice is taken that setting of a recalibration limit would have been obvious to one of ordinary skill in the art at the time of the invention which coincides with the life expectancy of the sensor. As to claim 10, note system controller 27/28. As to claim 11, note the correction table as in Fig. 9a. As to claim 12, note RAM 57. As to claims 13 and 20, note calibrator 25 for tool evaluator 18/23.1 which includes a first force sensor 23.1 which transmits a first signal and the calibrator including means for disposing a second force sensor 38 and a means for controlling 28 which receives the first and second signal at

evaluating circuit 61 with cpu 54 which calibrates the first sensor 23.1 which inherently includes determining a "calibration factor" since a "correction table" is generated, see Figs. 6-9 and 12 and col.4, lines 30 et seq. , in col. 6, lines 3 et seq, As to claims 14-15, 17 20-22 and 25, the operation of controller 28 is described in combination with fig.12 as well as compilation of a "correction table" or profile (as in fig. 9a) for "100 force values", see col.5, lines 34-49. As to claims 16 and 23, note figs. 13-15 which show curves for various crimping faults and refers to comparison with limit values of zones such as described in col. 9, lines 10 et seq. As to claims 18 and 26, since each force sensor has an associated correction table, note col. 5, lines 10-33, it is inherent if not obvious that some form of sensing the identity of the sensor is required in order to associate the measured tables of correction. As to claims 19, 24 and 27, Meisser provides a correction table graph but fails to indicate extrapolation of a performance trend. However, in the art of statistical analysis, extrapolation of a graph is old and well-known. Therefore, official notice is taken that extrapolation of the graph given by Meisser would have been obvious to one of ordinary skill in the art at the time of the invention as such an expediency is old and well-known in the art of statistical analysis.

2. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meisser in view of Pellerin et al (U.S. Patent # 4,838,085). As to claims 3

and 9, Meisser fails to disclose the ram 18 as air pressure controlled by a valve.

In a related prior art material testing device, Pellerin et al disclose a pneumatically controlled ram 72 along with valve control, see col. 7, lines 54 -68. Substitution of the Meisser ram with a pneumatic ram would have been obvious to one of ordinary skill in the art at the time of the invention as a well-known alternative ram known in the art as evidenced by the prior art to Pellerin et al.

Claim Rejections - 35 USC § 112

3. Claims 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 7, on line 4, "the actuator" lacks clear antecedent basis.

4. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection. However, in response to Applicant's argument that the crimping press in Meisser does not include "a handle" or any other structure that is hand-operable or a bearing surface for a handle member of a hand-operable tool, it is noted that **there is no claim language reciting "a handle" or a "handle member"**. Merely indicating that the tool is hand-operable does not indicate the usage of a handle and as illustrated above in paragraph 1, many features can be associated with being "hand-operable" which do not specifically equate to a handle.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Mondays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208.


The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NFayyaz
Examiner
Art Unit 2856

nf
8/5/05



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